

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ARTHANIEL BERNARD STATON,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO.: 3:18-cv-459-ECM
)	(WO)
DEWAYNE ESTES and)	
STEVEN T. MARSHALL,)	
)	
Respondent.)	

MEMORANDUM OPINION and ORDER

Now pending before the court is the Report and Recommendation of the Magistrate Judge (doc. 21) which recommends that this habeas petition be dismissed with prejudice. On July 12, 2021, the Petitioner filed Objections to the Recommendation (doc. 22) and a motion for an evidentiary hearing (doc. 23).

When a party objects to a Magistrate Judge's Report and Recommendation, the district court must review the disputed portions *de novo*. 28 U.S.C. § 636(b)(1). *See also United States v. Raddatz*, 447 U.S. 667, 674 (1980). The district court "may accept, reject, or modify the recommended disposition; receive further evidence; or resubmit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1). *De novo* review requires that the district court independently consider factual issues based on the record. *Jeffrey S. ex rel. Ernest S. v. State Bd. of Educ.*, 896 F.2d 507, 513 (11th Cir. 1990). "[A] party that wishes to preserve its objection must clearly advise the district court and pinpoint the

specific findings that the party disagrees with.” *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009) (alteration added).

The Court has carefully reviewed the Recommendation of the Magistrate Judge, and the Petitioner’s objections. The Petitioner objects to the dismissal of his petition without any specificity and without stating the bases for his objections. He offers only his conclusory assertions the Magistrate Judge erred but he does not point to any legal error committed by the Magistrate Judge. *See* Doc. 22. The Recommendation is reviewed for clear error, and the Court finds that the Petitioner’s objections are due to be overruled.

Moreover, the Petitioner requested in his objections and he filed a motion for an evidentiary hearing, (doc. 23). “An evidentiary hearing may be necessary where the material facts are in dispute, but a petitioner is not entitled to an evidentiary hearing when his claims are merely conclusory allegations unsupported by specifics.” *San Martin v. McNeil*, 633 F.3d 1257, 1271 (11th Cir. 2011) (quoting *Pugh v. Smith*, 465 F.3d 1295, 1300 (11th Cir. 2006) (internal quotation marks, citation, and alterations omitted)). Thus, the Court concludes that under the circumstances of this case, an evidentiary hearing is unnecessary.

Accordingly, for the reasons as stated and for good cause, it is

ORDERED as follows:

1. the Petitioner’s objections (doc. 22) are OVERRULED;
2. the Recommendation of the Magistrate Judge (doc. 21) is ADOPTED;
3. the Petitioner’s motion for an evidentiary hearing (doc. 23) is DENIED; and
4. this case is DISMISSED with prejudice.

A final judgment will be entered.

DONE this 14th day of September, 2021.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE